

**BOARD OF PARK COMMISSIONERS  
REGULAR MEETING  
Park and Recreation Department  
Conference Room, 11<sup>th</sup> Floor, City Hall  
Monday, October 10, 2005  
3:30 p.m.**

Present: Cherylane Adams, Dennis Brunner, Glen Dey, John Kemp, Doug Leeper and Janet Miller

Absent: Mick Tranbarger

Also Present: Jim Skelton – City Councilman; M.S. Mitchell – Metropolitan Area Planning Commission (MAPC); Judy Dillard – District Advisory Board (DAB) III; Curtis Harshfield, Kathy Dittmer – Riverside Citizens Association; and Doug Kupper, Mike North, Karen Walker and Maryann Crockett (staff)

President Miller called the meeting to order at 3:30 p.m.

**PUBLIC AGENDA**

No Items.

**REGULAR AGENDA**

1. **On motion by Kemp, second by Adams, the minutes of the September 10, 2005, regular meeting were reviewed and approved unanimously.**
2. **Renaming of Whitney Village Park.** President Miller referred board members to the biographical information on Phyllis Irene Hall provided with the agenda. She mentioned that the Park Board was the advisory committee for naming new parks or re-naming existing park areas. Director Kupper explained that in 2003, the City Council permanently designated the Park Board as the advisory committee for naming parks and property owned as park and open space land. He said as such, the Park Board followed the same guidelines and provisions set out in City Council Policy #13 – Advisory Committee on Naming of Public Facilities/Land, including submitting recommendations to the City Council for final review and determination.

President Miller asked Mr. Kemp if he would like to lead the discussion, since the park was located in District III, and he had been involved with the proposal to rename the park. Kemp commented that he had served on numerous committees and boards with Phyllis Hall, including the Planeview Neighborhood Association. He stated that there probably wouldn't even be a Whitney Village Park in Planeview if it had not been for the efforts of Ms. Hall. He said she was a tireless worker and community advocate. He said DAB III had voted to recommend that the park be renamed in honor of Ms. Hall's contributions to the Planeview neighborhood. He concluded by requesting that the Park Board recommend that the park be renamed the "Phyllis Hall Memorial Park". He introduced Jerry Hall (Mrs. Hall's husband) and Shirley Freeman (Mrs. Hall's sister).

President Miller asked if anyone from the public wished to comment on the issue. The following individuals spoke:

- Jim Skelton – City Councilman stated that he supported the proposal and asked the Park Board to provide a recommendation to the City Council.
- Judy Dillard – DAB III stated that Ms. Hall worked hard to establish the Planeveiw Neighborhood Association and get neighbors involved in the neighborhood and the creation of Whitney Village Park.

President Miller asked why the park was named Whitney Village and if there was an issue renaming the park. Director Kupper commented that Whitney Village was simply the name of the street where the park was located.

**On motion by Kemp, second by Leeper, IT WAS UNANIMOUSLY VOTED to recommend that the City council rename Whitney Village Park the “Phyllis Hall Memorial Park” in remembrance of Phyllis Hall.**

3. **Riverbank Re-plat-Mount Carmel River Addition.** President Miller stated that there was an educational element with this item related to the Park Board’s roll in this process. She said any action taken by the Board would probably have broad implications on other plat cases. She said she wanted to make sure that the Board understood exactly what the applicant was asking for, and she asked that the Board review this request in relationship to park and recreation open space, the bike path, public access to the Big Arkansas River, and setting a precedent for future replat requests.

Director Kupper explained that this request was presented to the MAPC Subdivision Committee approximately one month ago and was approved; however, when the item was placed on the MAPC agenda, former Park Board member Bob Aldrich suggested that the item be presented to the Park Board for review and discussion.

President Miller asked if anyone from the public wished to comment on the issue. The following individuals spoke:

- M.S. Mitchell, 1215 Forest – provided board members copies of a written statement and map. The map depicted the 100-year flood elevation and the reserve area along the Arkansas River. He made the following statement: “My name is M.S. Mitchell, and I am here today to ask you to preserve as parkland the bed and banks of the Arkansas River in Wichita. The configuration of those banks today are the work of the City-County Flood Control Office as part of the local commitment in the sponsorship of the Wichita-Valley Center Flood Control Project, commonly called the “Big Ditch.

That work was paid for by public tax dollars and represented a large investment in the concept to make the Arkansas River more accessible to the public, and to encourage its use for all kinds of recreation. As the design channel, with its maintainable slopes and stabilized maintenance access path along the waters edge progressed, part of the path was paved and the “bike path” system began.

In place of the near vertical, erosion prone riverbanks, the “river beautification project” produced riverbank slopes flat enough to support grass, and could be mowed and maintained, both to improve the flow of floodwaters, and make them attractive to the public.

As the work progressed, new subdivision plats along the Arkansas River were presented for approval, and those parts next to the riverbank were dedicated either as street right-of-way, or as reserves for the purposes of drainage, riverbank maintenance, flood control and beautification. It was never the intent that these reserves be turned over to private owners, once the flood control work was completed.

The ordinance which declares “All of that area within the City limits of Wichita laying between the high water marks, including the bed of the Big Arkansas River, is hereby designated as the Big Arkansas River and Bank Area, and the same is further designated as a park and recreation area under the control and jurisdiction of the Board of Park Commissioners of the City, except as hereinafter provided....” unfortunately limits the areas so designated as park to the area lying between high water marks.

There are at least two, and often more interpretations of what the term “high water marks” means. For wetlands regulation, the ordinary high water line is the area the water controls and is normally the edge of vegetation. For the design cross section now in place for the Arkansas River that would be the waterside edge of the stabilized maintenance access path, or at the edge of the water.

The high water mark for flood control purposes and often related to the line of ownership between the state and private parties is where the recorded highest level of water in the River meets the bank. The flood control cross section was designed to make certain that the floodwater released from the Control Structure at 25<sup>th</sup> Street North during the Corps of Engineers design flood, which is greater than the FEMA 100-year flood, never gets more than  $\frac{3}{4}$  bank full. The minimum vertical safety factor above that  $\frac{3}{4}$  bank full level was 3 feet.

That design cross section produced what has been maintained by the staff of Flood Control and the Park and Recreation department for over 30 years. I am here to ask you, as the Board of Park Commissioners, to pass a motion that requests the City Council to amend its Ordinance to make ALL of the bed and banks of the Arkansas River in Wichita a public park, and that language be devised which assures that the dedications given by the subdivisions platted during the period the flood control work was being done, be included as parkland.

I am advised that Mount Carmel River Addition has not been scheduled for hearing by the Metropolitan Area Planning Commission, and request that you ask that it not be scheduled until this matter can be presented to the City Council.” Mr. Mitchell said he was available for questions.

Leeper asked where the statement “It was never the intent that these reserves be turned over to private owners” was located. Mr. Mitchell explained that with most dedications or easements, underlying ownership of the property remained with the adjacent property owner. However, he said the Subdivision Committee considered the reserves along the river as permanent reserves.

There was discussion concerning the difference in the terms “high bank” and “high water marks”. It was noted that the area between the high water marks was the area placed under the jurisdiction of the Board of Park Commissioners. Mike North, City Attorney, commented that the high water marks (defined in case law as “the line to which the river rises in time of ordinary high water”) would be determined by surveys the Corp. of Engineers has developed over the years. He explained that a survey or title search was generally used to determine where that point was. He added that it was doubtful that any part of this proposed replat request intruded on any of the riverbank controlled by the Park Board.

Mr. North furnished board members a memorandum and a copy of Section 9.28.020 of the City Code – “Boundaries – designated park and recreation area”. He explained that the landowner was seeking a replat of a portion of his property that contained a “reserve”, (a parcel that was set aside for public use similar in concept to an easement or restrictive covenant on the property). He said it appears from the aerials that the applicant is attempting to combine two existing lots, vacate the reserve areas and move the edge of the unrestricted property line about 40 feet closer to the river, expanding both lots. He said it was not an issue of land conveyance to a private party.

- Curtis Harshfield, 1972 N. Mt. Carmel – explained that it was not his intent to interrupt park activities or restrict public access to either the bike path or the River. He said he was purchasing the vacant lot adjacent to his property (east) from his sister and this was an attempt to make the north property line consistent across both lots. He said it would require a replat of two different lots to align the north property line and that he had hired an engineer to review the issue. He passed out copies of a map, which reflected a portion of the Northeast Quarter of Section 12, Township 27 South, Range 1 West, of the 7<sup>th</sup> Principal Meridian, which seemed to indicate that the area had been replatted at least three different times. He said he did not feel that he had infringed on any public rights and said he was requesting the replat prior to doing any landscaping along the area. He commented that there was more than enough room for the City to perform maintenance up to the top of the riverbank.

Mike North asked who had legal title to the reserve? Mr. Harshfield said he could not answer that question. Mr. North commented that he felt the issue of the replat needed to be decided by the MAPC. He said at that time, the MAPC could place any restrictions or conditions they felt were necessary and reasonable on Mr. Harshfield. Director Kupper referred board members to the Plat of the Mount Carmel River Addition provided with the agenda and showed them the exact area of the requested replat.

- Kathy Dittmer, 823 Litchfield – asked who decided which high water mark to use, since the course of the river and the original riverbanks have changed over the years.

Kemp commented that the Corp. of Engineers probably made that determination; however, the Board requested that staff research that question. Adams also requested that staff provide clarification on property ownership of the reserve. North commented that as the riverbanks change, the property line generally changes as well.

There was general discussion concerning several requests received by the Park Board over the years from private property owners adjacent to parks to purchase or vacate parkland. Director

Kupper also mentioned the numerous encroachments onto park property throughout the City. Brunner stated that the encroachments had not been removed in Country Acres 3<sup>rd</sup> Addition, even though the City had notified the residents.

President Miller mentioned the Board's commitment to the preservation of parkland. She said she was concerned about setting a precedent, however, it did not appear that this case involved parkland. Brunner commented that he did not feel comfortable making a recommendation on the issue without knowing exactly where the park property line was located. He also mentioned that he appreciated the MAPC referring the matter to the Board for discussion. Kemp said he agreed with Brunner and added that property ownership and property lines needed to be established prior to any recommendation by the Park Board. Dey said part of his concern was how this issue affected the proposed park study and visioneering. He said one of the issues mentioned under the "Quality of Life" caption was making the Arkansas River a navigable river for recreational use.

**On motion by Dey, second by Adams, IT WAS VOTED that the Park Board defer Item #3, Riverbank Re-plat, and request from the City Council a moratorium on this and similar items, while a review of Ordinance 9.28.020 as drawn is conducted, to examine the ordinance's ability to accommodate planning by the City of Wichita, Visioneering, WAMPO for access to and recreational use of the Arkansas River.**

Leeper commented that if Mr. Harshfield owned the land, the City Ordinance would not apply. President Miller commented that a policy or guideline needed to be developed concerning replat requests along the miles of riverbank within the City so there will be consistency as each request is reviewed on a case-by-case basis. She said establishment of property ownership in this case might answer the question; however, the Board needed clarification for any future requests. Leeper commented that Mr. Harshfield had a right to receive a response to his request within a reasonable amount of time. Mr. Mitchell commented that as far as ownership is concerned, if Mr. Harshfield owned the reserve dedication, he would not need a replat.

**The question was called. Motion carried 5-1. Leeper – No.**

4. **Report on Initiated Capital Improvement Program (CIP) Projects.** Director Kupper reported briefly on the following CIP Projects: athletic courts; Arkansas River Canoe Access; Garvey Park; Grove Park; park facilities renovation; park lighting; parking lots and entry drives; playground rehabilitation and development; Schweiter Park; sidewalks, paths, decks and pads; South Arkansas River Greenway; swimming pools; and Watson Park.

Brunner asked about the status of his previous request for installation of a sidewalk adjacent to Harvest Park, where the designated crosswalk in the northwest corner ends in grass. Director Kupper stated that he had checked with Public Works, and it was determined that the Park and Recreation Department would be responsible for the cost of any sidewalk installation in that area, since it bordered Harvest Park. He said currently that project was not on the CIP list. President Miller requested that the project be added to the list and that the Board be informed when that had been done.

Leeper asked about the possibility of installing outdoor restrooms at Osage Park. Director Kupper said a project could be added to the list if the neighborhood really wanted it; however, he added

that Osage Recreation Center, which was open most of the time, had public restrooms. He also mentioned that the last estimate staff received for an outdoor restroom facility was \$225,000.

President Miller asked if additional paved parking at Grove Park or lighting at the skatepark was on the list. Director Kupper stated that additional parking at Grove was not anticipated at this time. He noted that parking was available at the playground area during the Park Board tour in September. He stated that some lighting had been installed at the skatepark; however, he added that skatepark hours were clearly posted as “Dawn to Dusk”. President Miller also asked about playground rehabilitation at Evergreen, North Woodland and Schell Parks. She specifically mentioned that the El Pueblo Neighborhood Association wanted to be involved in selection and placement of the equipment at Schell. Director Kupper reported that the equipment at Evergreen would be rehabbed and that a whole new system would be installed at Schell. President Miller stressed that the El Pueblo Neighborhood Association be involved in the process.

Other projects discussed included the restroom and trailhead at Grove Park; movement of \$200,000 from the Garvey Park project to Watson Park; replacement of swimming pool diving boards and platforms; design work at Planeveiw Park; and replacement of the “monoliths” at Sim Park.

5. **Director’s Update.** Director Kupper reported briefly on the following item.

- **Assistant Director of Park and Recreation** – commented that Karen Walker had been hired for the position of Assistant Director of Park and Recreation.

There being no further business, the meeting adjourned at approximately 5:15 p.m.

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Janet Miller, President

ATTEST:

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Maryann Crockett  
Recording Secretary